



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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ORAL INSTRUCTIONS RELATING TO TAX LIABILITY

Issued April 30, 1971

Are oral instructions or interpretations by employees of the Department of Revenue binding upon the department?

RCW 82.32.300 provides for the administration of Washington state excise tax laws by the:

. . . tax commission [department of revenue] . . . which shall prescribe forms and rules of procedure shall make and publish rules and regulations not inconsistent therewith necessary to enforce their provisions, which shall have the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

In the exercise of this statutory authority, the department has determined that it cannot authorize, nor does the law permit, the abatement of a tax or the cancellation of interest on the basis of a taxpayer's recollection of oral instructions by an agent of the department.

The department of Revenue gives consideration, to the extent of discretion vested in it by law, where it can be shown that failure of a taxpayer to report correctly was due to written instructions from the department or any of its authorized agents. The department cannot give consideration to claimed misinformation resulting from telephone conversations or personal consultations with a department employee.

There are three reasons for this ruling:

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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- (1) There is no record of the facts which might have been presented to the agent for his consideration.
- (2) There is no record of instructions or information imparted by the agent, which may have been erroneous or incomplete.
- (3) There is no evidence that such instructions were completely understood or followed by the taxpayer.

In *King Cy., etc. Assn. v. State etc. Bd.*, 54 Wn. 2d 1, the court ruled that:

Estoppel will never be asserted to enforce a promise which is contrary to the statute and to the policy thereof.